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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,954	03/01/2004	Shiping Wang	GL-6115DIV	6669
7590 Allegiance Corporation Attn: Kim Luna KB-1A 1430 Waukegan Road McGaw, IL 60083		01/09/2008	EXAMINER AUGHENBAUGH, WALTER	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/788,954

Applicant(s)

WANG ET AL.

Examiner

Walter B. Aughenbaugh

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-17, 19, 20 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 and 22-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 29, 2007 has been entered.

### ***Acknowledgement of Applicant's Amendments***

2. The amendment made in claim 10 in the Amendment filed October 29, 2007 (Amdt. C) has been received and considered by Examiner.

3. The amendments made in the abstract in Amdt. C have been received and considered by Examiner.

## **WITHDRAWN OBJECTIONS**

4. The objection to the abstract that was repeated in paragraph 7 of the previous Office Action mailed August 6, 2007 has been withdrawn due to Applicant's amendments in the abstract in Amdt. C.

5. The objection to the abstract made of record in paragraph 8 of the previous Office Action mailed August 6, 2007 has been withdrawn due to Applicant's amendments in the abstract in Amdt. C.

## **REPEATED REJECTIONS**

### ***Claim Rejections - 35 USC § 112***

6. The 35 U.S.C. 112 rejection of claims 16, 17 and 23 that was repeated in paragraph 11 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record. As previously stated, it cannot be ascertained whether or not Applicant intends to recite that the milk protein salt of claim 16 and the sodium caseinate of claims 17 and 23 are actually present in the final product in the claimed form of milk protein salt (in regard to claim 16) and of sodium caseinate (in regard to claims 17 and 23). Furthermore, the language of the claims does not require that the milk protein salt of claim 16 and the sodium caseinate of claims 17 and 23 are actually present in the final product.

***Claim Rejections - 35 USC § 102***

7. The 35 U.S.C. 102 rejection of claims 10, 16 and 17 that was repeated in paragraph 12 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record. The recitation "leaching... in a water leaching tank" is a method limitation that has not been given patentable weight since the method of forming the article is not germane to the issue of patentability of the article itself.

8. The 35 U.S.C. 102 rejection of claims 26-28 made of record in paragraph 16 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record.

***Claim Rejections - 35 USC § 103***

9. The 35 U.S.C. 103 rejection of claims 11-14 and 22 that was repeated in paragraph 13 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record.

10. The 35 U.S.C. 103 rejection of claim 15 that was repeated in paragraph 14 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record.

11. The 35 U.S.C. 103 rejection of claims 23-25 made of record in paragraph 17 of the previous Office Action mailed August 6, 2007 has been repeated for the reasons previously made of record.

***Response to Arguments***

12. Applicant's arguments presented on page 8 of Amdt. C regarding the 35 U.S.C. 112 rejection of claims 16, 17 and 23 have been fully considered but are not persuasive.

The language of the claims, including the language of claim 10, does not require that the milk protein salt of claim 16 and the sodium caseinate of claims 17 and 23 are actually present in the final product, but the fact that these claims are included in the claim set indicates that Applicant intends to claim the milk protein salt of claim 16 and the sodium caseinate of claims 17 and 23 as being present in the final product, so it cannot be ascertained whether or not Applicant intends to recite that the milk protein salt of claim 16 and the sodium caseinate of claims 17 and 23 are actually present in the final product.

13. Applicant's arguments presented on pages 8-9 of Amdt. C regarding the 35 U.S.C. 102 rejection of claims 10, 16 and 17 have been fully considered but are not persuasive.

Giving the claims the broadest reasonable interpretation consistent with the specification (MPEP 904.01), the copolymer (interpolymer) of McKay et al. that includes isoprene falls within the scope of the claim recitation "a polyisoprene latex". A polymer that includes isoprene is a polyisoprene, regardless of whether it is a homopolymer of isoprene or a copolymer

(interpolymer) that includes isoprene. The claim term “a polyisoprene latex” does not limit the claim to a homopolymer of isoprene.

14. Applicant’s arguments presented on pages 9-10 of Amdt. C regarding the 35 U.S.C. 103 rejections have been fully considered but are not persuasive. Applicant’s arguments depend upon Applicant’s arguments presented on pages 8-9 of Amdt. C regarding the 35 U.S.C. 102 rejection of claims 10, 16 and 17, which have been addressed above. Since the claim term “a polyisoprene latex” does not limit the claim to a homopolymer of isoprene, Applicant’s argument that one of ordinary skill in the art would not have been motivated to combine the references because neither reference discloses a homopolymer of isoprene (as alleged by Applicant) does not address the rejection of record, which is not premised on any teaching of a homopolymer of isoprene.

***Response to Declaration under 37 CFR 1.132***

15. The Co-Inventor’s statements presented in the Declaration filed on October 29, 2007 have been fully considered but are not persuasive.

Giving the claims the broadest reasonable interpretation consistent with the specification (MPEP 904.01), the copolymer (interpolymer) of McKay et al. that includes isoprene falls within the scope of the claim recitation “a polyisoprene latex”. A polymer that includes isoprene is a polyisoprene, regardless of whether it is a homopolymer of isoprene or a copolymer (interpolymer) that includes isoprene. The claim term “a polyisoprene latex” does not limit the claim to a homopolymer of isoprene. A definition for “polyisoprene” is appended to the Declaration: note that the claim term is “a polyisoprene latex”, and “polyisoprene” is used in the claim as an adjective, not as a noun (the claim does not recite merely “polyisoprene”, it recites a “a polyisoprene latex” and a “latex composition”).

*Conclusion*

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. While the examiner sets his work schedule under the Increased Flexitime Policy, he can normally be reached on Monday-Friday from 8:45am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Walter B. Aughenbaugh  
12/31/07

*Walter B. Aughenbaugh*  
12/31/07